

Message Text

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C O N F I D E N T I A L STATE 305406

E.O. 11652: GDS

TAGS: EFIN, CY

SUBJECT: U.S.-CYPRUS INCOME TAX CONVENTION

REF: (A) NICOSIA 3135 (B) STATE 279139

1. CYPRUS DCM ANGELIDES CALLED ON DEPTOFFS (EUR/SE)
DECEMBER 20 FOR FURTHER DISCUSSION ON RATIFICATION AND ENTRY
INTO FORCE OF U.S.-CYPRUS DOUBLE TAXATION CONVENTION.
ANGELIDES SAID THAT GOC AUTHORITIES HAD NOW EXAMINED TEXT
OF CONVENTION IN CONJUNCTION WITH TAX LEGISLATION ENACTED
SINCE ITS SIGNATURE IN 1974, AND HAD CONCLUDED THAT ONLY
AMENDMENT NEEDED WAS SOME REFERENCE TO PROVISIONS OF 1974
SPECIAL CONTRIBUTION LAW. GOC FELT THAT THIS COULD PERHAPS
BE HANDLED IN EXCHANGE OF LETTERS SUPPLEMENTARY TO THE
CONVENTION. DEPTOFFS NOTED THAT WE EXPECTED TO COMPLETE
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SHORTLY OUR OWN APPRAISAL OF TEXT IN LIGHT OF RECENT U.S.
TAX LEGISLATION.

2. ANGELIDES VOICED SUSPICION THAT U.S. MIGHT HAVE
POLITICAL REASONS FOR NOT PROCEEDING TO RATIFY CONVENTION
AT THE PRESENT TIME. HE ACKNOWLEDGED THAT THE GOC'S
COMPETENCE EXTENDED IN A DE FACTO SENSE ONLY TO THE GREEK

CYPRIOT-CONTROLLED PART OF CYPRUS AND THAT THE PROVISIONS

OF THE CONVENTION WOULD FOR THE TIME BEING HAVE PRACTICAL EFFECT ONLY IN THAT PART; YET HE STRESSED THAT THE U.S. CONTINUED TO RECOGNIZE THE GOC AS THE LEGALLY-CONSTITUTED GOVERNMENT OF THE REPUBLIC OF CYPRUS, AND ARGUED THAT WE SHOULD THEREFORE HAVE NO DIFFICULTY IN PRINCIPLE IN RATIFYING AN AGREEMENT THAT PURPORTED TO COVER THE ENTIRE TERRITORY OF THE REPUBLIC. IN THIS CONNECTION ANGELIDES POINTED OUT THAT THE U.K. AND THE FRG HAD RATIFIED AND PUT INTO EFFECT VERY SIMILAR INCOME TAX CONVENTIONS WITH THE GOC IN 1975 AND 1976 RESPECTIVELY.

3. DEPTOFFS SAID THAT IT WAS HELPFUL FOR US TO KNOW OF THE GOC'S TAX CONVENTIONS WITH THE UK AND THE FRG, BUT THAT THEY COULD NOT FOR THE MOMENT PROVIDE A DEFINITIVE ANSWER TO THE POINTS ANGELIDES HAD RAISED. THEY NOTED THAT DEPARTMENT LAWYERS HAD RAISED SEVERAL QUESTIONS THAT RELATED TO THE DE FACTO SITUATION ON CYPRUS AND TO COVERAGE OR NON-COVERAGE OF RESIDENTS OF THE ISLAND WHO WERE NOT PAYING TAXES TO THE GOC. THESE WERE PRACTICAL LEGAL PROBLEMS. DEPTOFFS ALSO POINTED OUT THAT THE CONGRESSIONAL TREATY CALENDAR WOULD BE SO CROWDED EARLY IN THE COMING YEAR THAT IT SEEMED MOST UNLIKELY THAT EVEN SO ROUTINE A CONVENTION AS THIS COULD BE PROCESSED BEFORE A NUMBER OF MONTHS. DEPTOFFS UNDERTOOK, HOWEVER, TO LOOK

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MORE FULLY INTO THE POSSIBILITIES FOR RATIFICATION AND TO NOTIFY ANGELIDES WHEN WE HAD COME TO A DECISION.

4. COMMENT: DEPTOFFS DID NOT DESCRIBE IN ANY DETAIL THE POTENTIAL PROBLEMS THAT DEPARTMENT LAWYERS HAVE IDENTIFIED AS ARISING FROM RATIFICATION AND ENTRY INTO EFFECT OF THE CONVENTION AS IT NOW STANDS. BRIEFLY, THESE ARE AS FOLLOWS. UNLIKE CERTAIN OTHER TREATIES, AN INCOME TAX TREATY ENTAILS BENEFITS AND OBLIGATIONS FOR EACH PARTY THROUGHOUT ITS NATIONAL TERRITORY, AND CANNOT BE PROPERLY ADMINISTERED UNLESS IT CAN BE EFFECTIVELY APPLIED THROUGHOUT THAT TERRITORY. THE GOC IS NOT CAPABLE OF ENFORCING THE TREATY THROUGHOUT CYPRUS, AND OUR OFFICIAL POSITION VIS-A-VIS THE GOC'S ADMINISTRATIVE REACH DOES NOT ALTER THIS FACT. A NUMBER OF PRACTICAL PROBLEMS COULD ARISE AS A CONSEQUENCE. FOR EXAMPLE, WHAT BENEFITS ARE OBTAINED OR OBLIGATIONS INCURRED BY AMERICAN CORPORATIONS OR INDIVIDUALS IN THE TURKISH CYPRIOT-CONTROLLED PART OF THE ISLAND? IT IS ASSUMED THAT THEY DO NOT, OR MAY INDEED BE UNABLE, TO PAY TAXES TO THE GOC. WHAT WOULD BE THE STATUS OF ANY REQUESTS THEY MIGHT MAKE FOR TAX CREDITS OR OTHER BENEFITS UNDER THE TREATY? AT SUCH TIME AS AN CYPRUS

SETTLEMENT IS CONCLUDED, WOULD THEY BE SUBJECT TO SANCTIONS
FOR TAX EVASION AND WOULD THE USG BE OBLIGATED IN ANY WAY

TO ASSIST IN DEVELOPING THE CASE AGAINST THEM? THESE MAY
NOT NOW BE REAL PROBLEMS, BUT WE CANNOT ASSUME THAT THEY
WILL NOT ARISE IN THE FUTURE.

5. AS A FIRST STEP, WE BELIEVE THAT IT WOULD BE INSTRU-
CTIVE TO FIND OUT WHETHER THE BRITISH AND GERMANS CONSIDER-
ED POSSIBLE PROBLEMS SUCH AS THESE IN RATIFYING THEIR
OWN TAX CONVENTIONS WITH GOC, AND IF THEY DID, HOW THEY
RESOLVED THEM OR MADE ALLOWANCE FOR THEM. DEPARTMENT
WOULD APPRECIATE EMBASSIES LONDON AND BONN MAKING
APPROPRIATE INQUIRIES. VANCE
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